

151 FERC ¶ 61,083  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

April 30, 2015

In Reply Refer To:  
Trans Bay Cable LLC  
Docket No. ER11-3262-002

Trans Bay Cable LLC  
One Letterman Drive  
Building C, 5th Floor  
San Francisco, CA 94129

Attention: Lenneal Gardner, Corporate Counsel

Reference: Refund Report

Dear Lenneal Gardner:

1. On May 16, 2013, Trans Bay Cable LLC (Trans Bay) filed a refund report in compliance with an Offer of Settlement and Stipulation (Settlement Agreement) approved by the Commission in Docket Nos. ER11-3262-000 and ER10-116-000.<sup>1</sup> The California Department of Water Resources State Water Project (State Water Project) and Pacific Gas and Electric Company (PG&E) filed comments generally suggesting that Trans Bay's refund report did not contain information sufficient for the Commission and stakeholders to verify the accuracy of the refund amount. Thus, on September 19, 2013, Commission staff issued a data request asking Trans Bay to file additional information to calculate and support the accuracy of the refund amounts.<sup>2</sup> On October 18, 2013, Trans Bay filed additional information in response to the September 19 Data Request.

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<sup>1</sup> *Trans Bay Cable LLC*, 137 FERC ¶ 61,258 (2011).

<sup>2</sup> *Trans Bay Cable LLC*, Docket No. ER11-3262-002 (Sept. 19, 2013) (delegated letter order) (September 19 Data Request).

2. Article 2 of the Settlement Agreement requires Trans Bay to refund the difference between the rates collected from November 23, 2010, pursuant to an initial base transmission revenue requirement (TRR)<sup>3</sup> and a revised base TRR filed in Docket No. ER11-3262-001,<sup>4</sup> and the rates that would have been collected in accordance with the base TRR established in the Settlement Agreement, with interest calculated pursuant to 18 C.F.R. § 35.19a (2013). Trans Bay states that its over-collection of revenues is applicable for the period from November 23, 2010 through January 9, 2012, in accordance with the Settlement Agreement.<sup>5</sup> Trans Bay also states that its refund payments occurred during the period from August 2, 2011 through April 16, 2013, which is the date the final refund payment was made.<sup>6</sup> Further, Trans Bay states that the “refund amounts are calculated based on revenue differences associated with the effective dates of [Trans Bay’s] Initial Base TRR, its Revised Base TRR and its Base Settlement TRR, and the CAISO’s timing of refunds based on their implementation date of each TRR.”<sup>7</sup>

3. Notice of the May 16 Filing was published in the *Federal Register*, 78 Fed. Reg. 31,915 (2013), with interventions and protests due on or before June 6, 2013. Timely motions to intervene and comments were filed by State Water Project and PG&E. Notice

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<sup>3</sup> In Docket No. ER10-116-000, Trans Bay proposed an estimated annual TRR of \$149.3 million (Initial Base TRR) associated with its 53-mile, 400 MW submarine direct current transmission line. By order dated December 17, 2009, the Commission accepted Trans Bay’s Filing, suspended it to become effective as of the date of commercial operation of Trans Bay’s transmission line, and set the proceeding for hearing, subject to refund, and Settlement Judge procedures. *Trans Bay Cable LLC*, 129 FERC ¶ 61,225 (2009) (December 17, 2009 Order).

<sup>4</sup> On January 11, 2011, pursuant to the December 17, 2009 Order, Trans Bay filed its updated cost-of-service which reflected a reduced TRR of \$140.4 million (Revised TRR). By order dated June 7, 2011, the Commission accepted, effective November 23, 2010, Trans Bay’s Filing subject to the outcome of the ongoing proceedings in Docket No. ER10-116-000. *Trans Bay Cable LLC*, 135 FERC ¶ 61,215 (2011). As a result of continuing settlement negotiations in Docket No. ER10-116-000, a black-box settlement in principle was reached, and on November 8, 2011, Trans Bay filed the Settlement Agreement. The Settlement Agreement included a settlement TRR of \$132.5 million (Base Settlement TRR).

<sup>5</sup> Trans Bay Filing at 1.

<sup>6</sup> *Id.* at 2.

<sup>7</sup> *Id.*

of Trans Bay's October 18, 2013 response was published in the *Federal Register*, 78 Fed. Reg. 64,486 (2013), with interventions and protests due on or before November 12, 2013. A timely motion to intervene was filed by DATC Path 15, LLC.

4. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,<sup>8</sup> the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

5. In their comments to the May 16 Filing, State Water Project and PG&E state that Trans Bay's refund report consisted of a single page reflecting only principal and interest total columns for each month of the refund period and the total refund amount, and argue that additional information is needed to verify the accuracy of the refund amount.<sup>9</sup> Specifically, State Water Project states that the refund report does not explain how the calculations were made, including: (1) the rate that was in effect during each month of the refund period; (2) the presumptive rate that Trans Bay was entitled to as a result of the settlement; (3) the interest rate(s) that were applied to the refund principal; and (4) the revenues that were collected, as well as the revenues Trans Bay was entitled to for the refund period.<sup>10</sup> PG&E requests that Trans Bay differentiate between low voltage access charges and high voltage access charges, and submit relevant settlement statements and invoices documenting the amounts paid to Trans Bay and the reductions against Trans Bay's revenue requirement in accordance with the refunds required by the Settlement Agreement.<sup>11</sup>

6. We find that Trans Bay's October 18, 2013 response to the September 19 Data Request provides all of the additional information requested by State Water Project and PG&E to support the accuracy of the refund amounts. The additional information includes: (1) supporting data to show the rates in effect during the refund period (i.e., from November 23, 2010 through January 9, 2012) and the rates that Trans Bay was entitled to pursuant to the Settlement Agreement during the same period, differentiated between low voltage access charges and high voltage access charges; (2) supporting data to show the revenues that Trans Bay collected during the refund period and the revenues that Trans Bay was entitled to pursuant to the Settlement Agreement during the same period; and (3) the interest rates that were applied to the refund principals during the refund period.

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<sup>8</sup> 18 C.F.R. § 385.214 (2014).

<sup>9</sup> State Water Project Comments at 5; PG&E Comments at 4.

<sup>10</sup> State Water Project Comments at 5.

<sup>11</sup> PG&E Comments at 4.

7. Accordingly, we accept for filing Trans Bay's refund report, as supported by its October 18, 2013 response.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.